

# RESEARCH, DEVELOPMENT, INNOVATION AND INTELLECTUAL PROPERTY IN THE HEALTH SECTOR

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# Research & Development, Innovation and Intellectual Property

- For decades, universities and R&D institutions in the developing economies have not been associating themselves with IP.
- Neither promotion nor protection;
- IP- Not in their teaching curriculum;
- No national and/or institutional IP policies;
- Researchers -interested with the immediate economic gains – at the expense of the long term value that can be captured from research outputs using the IP system.

With acceptance of IP 3 principal Key points take issue therein.

a) Protected works

b) Types of Intellectual Property

c) Laws on Intellectual Property on the local and International Arena.

# Why IP Management

- As a way of tapping value from research;
- As a way of creating additional incentive to researchers;
- As a way towards developing beneficial linkages with other research institutions;
- As intellectual property becomes more prevalent in health, research, public sector institutions need to consider the intellectual property of third parties. Knowledge of “who owns what” is needed. T

# Role of an IP Office at a Health Innovation Hub

The Intellectual Property Management Office have the following traditional functions:

- It plays an advisory role on all issues relating to IP and Innovation;
- It is responsible for implementation of the IP policy;
- Negotiating “Licensing-out” and “licensing-in” of the innovations/IP assets;
- Creating linkages between researchers, innovation and IPMO– a complex process;
- Taking all necessary timely actions to protect the innovations, IP interest of the institution;
- Filing of the Patent Applications – in most cases this may be sourced-out;
- Conducting institutional IP Audits;
- Reviewing of the Research Collaborative Arrangement – it may create tension with researchers;
- Carrying out IP awareness programs;
- Creating partnerships with potential users of various research results.

# Innovation and Market Known Values

## IP Best Practices in Research/Innovation process:

- Laboratory practices – the need to control access to information by the visitors;
- The use of Lab Notebooks;
- Signing of the Non-Disclosure Agreement;
- Issues relating to material transfers;
- Publish or Perish vs. Patent or Perish;
- Freedom to Operate (FTO);
- Intellectual Property Audit;
- Intellectual Property Compliance;
- Authorship/ Inventorship/Innovation ownership

# What is protectable in Research, Development leading Innovation

- **Patents**

A limited property right offered by government to inventors in exchange for sharing the details of their inventions with the public (= a social contract).

Applications are made public and constitute a valuable scientific and technical source of information.

- **Not a right to practice or use.**

Right to exclude others from making, using, selling, offering for sale, or importing the patented invention.

- Term of patent protection usually 20 years from the date of filing. Granted rights may be sold, licensed (exclusively or non-exclusively), mortgaged, assigned or transferred, given away, or simply abandoned.

# Who owns what in Research, Development and Innovation

- The Commissioner /Employer is the owner of the product of the R & D leading to Innovation.
- Creator if he can prove no relationship with work or did not use facilities of employer.
- If you want the situation otherwise you must sign an agreement to that effect.
  - a) Ownership:
  - b) Transfer of ownership
  - c) Usage of the creation:
  - d) Confidentiality

An employee who reached an invention that was made on a made-for-hire basis is entitled reasonable and fair compensation.

# Key Issues in R & D Contracts

- Ownership
- Description of IP rights
- Know how. (Confidentiality)
- Conditions of Transfer of IP Rights and Technology
- Background Rights (NDA)
- Foreground Rights
- Utilization of Intellectual Property Developed
- Exclusivity/Restriction on Competition or Stipulating Non-competition Obligations
- Warranty/Liability
- Jurisdiction
- Dispute resolution



# Commercialization of R & D and Innovation

- Outright sale of technology,
- Strategic Alliance
- Licensing of technology,
- Joint-venture
- Start-up ventures.

# STAKEHOLDERS IN COMMERCIALISED IP

1. Universities/Research Institutions

2. Inventors

3. Researcher

4. Students and research assistant

5. Guest researchers

6. Sponsor including industry

7. Collaborators

8. Government Inventor/Innovator

## REVENUE SHARING AFTER INNOVATION

IP Fund

Inventors research

Inventors department and faculty

University wide research fund

Technology Transfer Office

t and Public

# Challenges to effective IP regimes

- Lack of IP Awareness( When to publish, consequences of publishing, rights attained etc.)
- Lack of Financial Resources
- Situation of the IP Office in Universities/Research Institutes
- The mindset change;
- Budgetary Constraints;
- Long Pay-back Period;
- Conflict of interests (maintaining public interest vs. commercial interests);
- Non-existence of the national IP policy frameworks;

# **IPR promotes innovation by providing the legal and economic framework for market-based incentives and rewards that:**

- pay for research and development,
- support the promotion and distribution of the innovations that are thus developed, in the form of products, services and processes in the market,
- promote cultural expression and diversity,
- make technologies more widely available through the mechanism of licensing,
- increase society's overall state of knowledge through the information disclosed in patent applications and publications,
- promote technology transfers, and
- broaden the dissemination of government-funded R&D.

# Conclusion/Way Forward

- The need for Innovators to take a proactive role in adopting the IP agenda;
  - Uganda should seek through patenting and licensing policies to maximize the availability of innovations, including research tools and platform technologies, for the development of products of relevance to public health, particularly to conditions prevalent in developing countries..
  - application of creative licensing practices that ensure global access and affordability
  - Linking with WIPO and ARIPO for assistance;
  - Liaising with National IP office for expertise and advise;
  - Commit budget for IP Audit, Strategy, Policy, and Management Office;
  - Develop partnerships
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- R&D, Innovators operate in a fast changing and complex business environment
  - Property relations are being redefined – It is those with ideas that are set to rule the world;
  - In order to develop a self-sustaining circle of research and innovation – IP is an indispensable agenda;
  - The integration process requires investment in Time and Financial Resources
  - The need for institutional collaboration on IP Management Capacity Building

# END

“With these best practices that include creative licensing practices that ensure global access and affordability, improved institutional IP management capabilities, the formulation of comprehensive national IP policies, and the strengthening of IP court systems and patent offices”. Uganda will experience a sky rocketing revolution in innovation geared towards solutions in health and the general application.

THANK YOU

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